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Gregory Niles

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APPLE/FENWICK
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

EXAMINER

ABDUL-ALI, OMAR R

ART UNIT

PAPER NUMBER

2173

MAIL DATE

DELIVERY MODE

11/13/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

Election/Restrictions

5. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-29, 34-42, 44-64, 69-77, 79-99, drawn to a system, method, and computer program product for editing a project comprising an overview layer oriented along an axis representing time, including first and second editable representations of media clips having dimensions along the first axis representing the temporal length of the media clip and an input device for receiving user input for editing the representations of the media clips, classified in class 715, subclass 716.
 - II. Claims 30-33, 65-68, 100-103, drawn to a system, method, and computer program product for editing a project comprising a plurality of media clips comprising displaying a canvas including a representation of the project wherein if the project is being played the representation of the project shows the project as the project is playing, and wherein if the project is not being played the representation of the project comprises a plurality of selectable and spatially movable representations of the plurality of media clips that comprise the project, wherein a location of the spatially movable representation represents where the media clip is displayed within the project when the project is playing, classified in class 715, subclass 723.

- III. Claims 104, 112, and 120, drawn to a media editing application, computer program product, and system of moving a video clip to a destination, wherein a second video clip already exists at the destination location comprising receiving a command to drag the video clip to the destination location a drop menu comprising a plurality of commands for integrating the dragged media video clip at the destination location, wherein the plurality of commands includes at least one of composite command and an exchange command, classified in class 715, subclass 732.

a. Inventions I, II, and III are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the methods, systems, and computer readable memory comprise an overview layer oriented along an axis representing time, including first and second editable representations of media clips having dimensions along the first axis representing the temporal length of the media clip and an input device for receiving user input for editing the representations of the media clips. The subcombination has separate utility such as displaying a canvas including a representation of the project wherein if the project is being played the representation of the project shows the project as the project is

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playing, and wherein if the project is not being played the representation of the project comprises a plurality of selectable and spatially movable representations of the plurality of media clips that comprise the project, wherein a location of the spatially movable representation represents where the media clip is displayed within the project when the project is playing (Group II), or moving a video clip to a destination, wherein a second video clip already exists at the destination location comprising receiving a command to drag the video clip to the destination location a drop menu comprising a plurality of commands for integrating the dragged media video clip at the destination location, wherein the plurality of commands includes at least one of composite command and an exchange command (Group III).

The examiner has required restriction between combination and subcombination inventions. Where applicant elects a subcombination, and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

2. Restriction for examination purposes as indicated is proper because all these inventions listed in this action are independent or distinct for the reasons given above and there would be a serious search and examination burden if restriction were not

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required because one or more of the following reasons apply:

- (a) the inventions have acquired a separate status in the art in view of their different classification;
- (b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;
- (c) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);
- (d) the prior art applicable to one invention would not likely be applicable to another invention;
- (e) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after

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the election, applicant must indicate which of these claims are readable on the elected invention.

If claims are added after the election, applicant must indicate which of these claims are readable upon the elected invention.

Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OMAR ABDUL-ALI whose telephone number is (571)270-1694. The examiner can normally be reached on Mon-Fri(Alternate Fridays Off) 9:30 - 7:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kieu Vu can be reached on 571-272-4057. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

OAA
11/07/2009

/Kieu Vu/
Supervisory Patent Examiner, Art Unit 2173